IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

F.A.O. No.253 of 2006
Date of decision: 1.9.2006

The Oriental Insurance Company Ltd.

..... Appellant

Versus

Vijay Singh and others.

..... Respondents

CORAM : Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Ms.Vandanaa Malhotra, Advocate for the appellant.
Shri Nilesh Bhardwaj, Advocate for respondent no.1.
Shri S.K.Yadav, Advocate for respondent nos. 4 and 5.

....

Mahesh Grover,J.

The Oriental Insurance Company Limited is in appeal against award dated 3.8.2005 passed by the Presiding Officer of the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as `the Tribunal') in M.A.C.T. Case No.42 of 28.8.2002/9.5.2005.

In a motor vehicular accident which took place on 24.6.2002, claimant-Vijay Singh suffered serious injuries resulting in 70% disability to him on account of amputation of his right leg. The Tribunal awarded a compensation of Rs.1,95,000/- to the claimant on a petition (M.A.C.T. Case No.42 of 28.8.2002/9.5.2005) preferred by him under the provisions of

Motor Vehicles Act,1988 (for short, `the Act') and directed the appellant with which the offending tractor no.HR-36C-6285 stood insured to pay the compensation.

The only contention that has been raised by Ms.Vandanaa Malhotra is that the appellant could not be held liable to make the payment of the compensation amount in view of the fact that the claimant was sitting on the mud-guard of the offending vehicle which he had hired for carrying the fodder and, thus, the tractor in question was being used for carrying a passenger in violation of the terms and conditions of the insurance policy. In support of her contention, learned counsel relied upon a judgment of this Court in New India Assurance Co.Ltd. Versus Tarawati and others, 1994 A.C.J. 822 and another judgment of Karnataka High Court in Kenchappa and another Versus V.Jayalakshmamma and others, 2005 A.C.J. 290.

We have thoughtfully considered the contention of the learned counsel for the appellant, but are unable to agree with her. It has been established by way of evidence that claimant-Vijay Singh had hired the offending tractor for carrying the fodder which belonged to him in the tractor-trolly. Thus, the tractor and the trolly in question were being used only for agricultural purposes. The claimant was travelling along with the fodder. According to the provisions of Section 147 of the Act (as amended in the year 1994), the insurance policy would cover the risk of the third party, as also the owner of the goods. In our opinion, the Tribunal has rightly relied upon the judgment of the Apex Court in M/S National Insurance Co.Ltd. Versus Baljit Kaur and others, 2004(1) R.C.R. (Civil) 722. As noticed above, the tractor in question was being used for agricultural purposes and if the owner of the goods was sitting thereon, it

cannot be said that the same was not being used for agricultural purposes or that the person travelling to watch the interest of the goods was a passenger on it. A learned Single Judge of Madhya Pradesh High Court in Malkibai and others Versus Badriprasad and others, 1996 A.C.J. 38, in almost identical facts, held as under:-

> "13. The next point that arises for determination in the case is as to whether the insurance company is liable to make good the loss. It is not in dispute that the motor tractor was insured for agricultural purpose and carrying the straw load even on hire would be a work for agricultural purposes. Nowadays after coming into force of the ceiling law in the country an owner of the tractor cannot sustain tractor only by working for himself, he can use that tractor for cultivating the land of others and for assisting in the agricultural operations of other cultivators and that would also be deemed to be an agricultural purpose.
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> 14. If a tractor was being used for agricultural purposes in assistance even for hire of other cultivators, the insurance company cannot be allowed to say that the same was being used not for agricultural purpose.
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> 15. Deceased Narsingh had gone along with the tractor for putting the load of maize-straw on the trolley. His presence in the trolley was necessary for loading and unloading the maize-straw and, therefore, it will be further deemed that Narsingh was working in the aid of agricultural purposes."

In view of the above discussion, we hold that the claimant-injured, who was merely accompanying his goods, cannot be termed to be a

passenger on the tractor in question.

In our opinion, the law laid down in the judgments relied upon by Ms.Vandanaa Malhotra does not enhance the case of the appellant.

Resultantly, we do not find any ground to interfere with the impugned award and the appeal being devoid of any merit is dismissed.

(Mahesh Grover)
Judge

September 01,2006
"SCM"

(Uma Nath Singh)
Judge